

REMARKS

In the outstanding Office Action¹, the Examiner rejected claims 27, 28, 32, 42, and 46 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,666,293 to Metz ("Metz") in view of U.S. Patent No. 6,230,319 to Britt ("Britt") and U.S. Patent No. 6,622,246 to Biondi ("Biondi").

No claims are amended herein. Claims 27, 28, 32, 42, and 46 remain pending in this application.

I. Rejection under 35 U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 27, 28, 32, 42, and 46 under 35 U.S.C. § 103(a) on the ground that Biondi is not prior art. This application has an effective filing date of April 2, 1998. See MPEP § 1893.03(b), 8th Ed., Rev. 6 (September 2007). The cover page of Biondi lists a filing date of November 12, 1999, which is later than Applicants' effective filing date of April 2, 1998. Thus, Biondi does not qualify as prior art under 35 U.S.C. § 102(e). Moreover, the cover page of Biondi lists a publication date of September 16, 2003, which is also later than Applicants' effective filing date of April 2, 1998. Therefore, Biondi also does not qualify as prior art under 35 U.S.C. §§ 102(a) or 102(b). Accordingly, because Biondi does not qualify as prior art under 35 U.S.C. § 102, Biondi cannot be applied in a rejection under 35 U.S.C. § 103(a). See MPEP § 2141.01. The rejections of claims 27, 28, 32, 42, and 46 under 35 U.S.C. § 103(a) as being unpatentable over a combination including Biondi are thus

¹ The Office Action contains statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

improper. Applicants therefore respectfully request that the Examiner withdraw the improper rejection of claims 27, 28, 32, 42, and 46 under 35 U.S.C. § 103(a).

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: December 24, 2008

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